

**Docket No.:** 00-0812  
**Bench Date:** 05-11-04  
**Deadline:** N/A

## **M E M O R A N D U M**

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**TO:** The Commission

**FROM:** Michael L. Wallace, Administrative Law Judge

**DATE:** April 21, 2004

**SUBJECT:** Verizon North Inc. (f/k/a GTE North Incorporated) and  
Verizon South Inc. (f/k/a GTE South Incorporated)

Petition Seeking Approval of Cost Studies for Unbundled  
Network Elements, Avoided Costs and Intrastate Switched  
Access Services.

**RECOMMENDATION:** Enter Interim Order.

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This matter was discussed at the Pre-Bench and Bench Sessions on January 21, 22, and 27, 2004. At the direction of the Commission a second round of supplemental briefs were received by the Administrative Law Judge. The question posed to the parties was:

Has the FCC in its NPRM affirmed the commitment to UNE rates based upon the forward looking costs of providing such services as the incumbent's network is able to support?

The Second Supplemental briefs ("SSB") essentially said yes, but the actual methodology may change. The NPRM has not changed the existing cost rules at this time and as pointed out in the SSBs the FCC has not adopted rules, but rather has only reached a number of tentative conclusions. I would note that the Illinois Rural Competitive Alliance in its SSB requested that the Commission should reject the ICM. AT&T and MCI requested that the Commission adopt interim UNE rates based on the FCC proxies.

I did not find the SSBs particularly helpful in answering the pending question. Because the FCC has not taken final action on this rulemaking, it would not serve any purpose to change this docket and attempt to anticipate what the final FCC outcome will be. Therefore, I am resubmitting the Interim Order that was previously on the agenda with no changes. I would note for the Commission that one of major disagreements was over the use of the ICM. In its SSB, Verizon noted that ICM is an older software-based program of GTE and Verizon had moved on to a web-based model named VZ Cost. Because of this statement, a status hearing was held to discuss this model. At

the status hearing, Verizon indicated that it is committed to using and supporting ICM because of the time already spent in litigation over it. Verizon does not want to re-litigate the cost model issue which inserting VZ Cost into this docket would do. Other parties who dispute the validity of the ICM argue that the case should migrate to the newer cost model.

Although I am not enamored of the ICM, I see no alternative but to recommend its adoption at this stage of the proceeding. Quite some time has been spent litigating the ICM and to change to another model would require more litigation. I would recommend entry of the attached interim order and send this docket to Phase 2.

MLW/lw